

**Notice of Allowability**

Application No.

10/723,624

Examiner

Manuel L. Barbee

Applicant(s)

KOEHLER ET AL.

Art Unit

2857

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 14 November 2005.
2. ☒ The allowed claim(s) is/are 1-63 and 84-120.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Charles A. Bieneman on 28 November 2005.

The application has been amended as follows:

In claim 85, line 1 of the claim, delete "0", and insert --84--.

In claim 86, line 1 of the claim, delete "0", and insert --84--.

### ***Allowable Subject Matter***

2. Claims 1-63 and 84-120 are allowed.

3. The following is an examiner's statement of reasons for allowance: Bauer et al. do not teach a method that includes disposing an electrode mechanism in a substance, exciting the electrode mechanism sequentially with a specified number of alternating voltages, wherein each of the alternating voltages is at a different frequency in a range of frequencies, performing at least one calculation to generate at least one datum associated with each of the frequencies in the range of frequencies, creating a graph comprising x-values related to the specified number and creating a combined plot by placing a plurality of plots generated from a plurality of spectra on the graph using each at least one datum, wherein each x-value corresponds to at most one datum in the combined plot, as shown in claim 1. None of the prior art teaches a system or method

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that includes an electrode mechanism that is operational when disposed in a substance, a mechanism for exciting the electrode mechanism sequentially with a specified number of alternating voltages, a computing device for performing at least one calculation to generate at least one datum associated with each of a plurality of frequencies in a range of frequencies and at least one prediction equation that is generated at least in part by using the at least one datum, as shown in claims 14, 30 and 44. None of the prior art teaches a method that includes generating a plurality of first plots of spectra over a range of frequencies, generating a plurality of second plots of the range of frequencies and creating a first spectral matrix from the plurality of first plots and a second spectral matrix from the plurality of second plots, as shown in claim 84. None of the prior art teaches a method that includes generating a plurality of Nyquist plots, wherein each Nyquist plot is associated with a sample of a substance, creating a derived data by deriving at least one datum from each of the Nyquist plots and populating a spectral matrix with the derived data, as shown in claim 108.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 9-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mlb  
November 28, 2005

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800